

**AN ORDINANCE BY
COUNCILMEMBER KWANZA HALL**

**AS SUBSTITUTED BY
CITY UTILITIES COMMITTEE**

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ATLANTA BELTLINE, INC. (“ABI”) FOR THE DESIGN AND CONSTRUCTION OF THE CLEAR CREEK COMBINED SEWER BASIN RELIEF PROJECT (“PROJECT”) ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO AMEND THE FISCAL YEAR 2008 BUDGET (WATER AND WASTEWATER BOND FUND) IN THE AMOUNT OF \$30,000,000.00 TO TRANSFER FUNDS FROM THE RESERVE FOR APPROPRIATIONS (2J28 7*** Q11X03019999) TO CLEAR CREEK COMBINED SEWER BASIN RELIEF PROJECT (2J28 774001 Q38I01569999) TO THE ATLANTA BELTLINE, INC.; AUTHORIZING THE MAYOR TO EXECUTE APPROPRIATE AGREEMENTS WITH ABI TO EFFECTUATE THESE PURPOSES; AUTHORIZING THE ACCEPTANCE OF THE PROJECT UPON FINAL COMPLETION OF THE PROJECT; AND FOR OTHER PURPOSES.**

WHEREAS, Atlanta BeltLine, Inc. (“ABI”) has been established by the Atlanta Development Authority to execute the approved BeltLine Tax Allocation District, as authorized by City of Atlanta Ordinance 05-O-1733; and

WHEREAS, ABI has identified several projects through the approved BeltLine TAD Workplan authorized by City Ordinance 06-O-1575, which includes the creation of a park and attendant amenities in the area commonly referred to as the North Avenue Area; and

WHEREAS, the City of Atlanta has authorized the sale of City Hall East and the subsequent redevelopment of portions of the North Avenue Area, by City of Atlanta Ordinance 05-R-1832; and

WHEREAS, the redevelopment of City Hall East will require the vacation of certain storm water vaults that currently occupy the first floor of the structure; and

WHEREAS, the proposed Clear Creek Combined Sewer Basin Relief Project (the “Project”) will provide a storm water management pond on approximately 5 acres, with detention of 22 acre-ft (9 million gallons) of storm water runoff from an 800-acre drainage area within the Clear Creek combined sewer basin, upstream (south) of North Avenue; and

WHEREAS, the Project will retain storm water runoff from the 100-year storm event, which will reduce the peak rate of flow to the existing combined sewer trunk, thus offering capacity relief to the existing combined sewer system as required under the City’s wastewater consent decrees; and

WHEREAS, the Project will be constructed in an aesthetically attractive manner to serve

as an amenity to the Old Fourth Ward neighborhoods and to the City of Atlanta, providing a centerpiece for the proposed North Avenue Park contemplated in the BeltLine TAD; and

WHEREAS, the design and construction of the Project will employ forward-thinking and innovative design and engineering concepts to improve the delivery of similar projects throughout the City; and

WHEREAS, the Old Fourth Ward community and adjacent neighbors will have access to a park and water feature that will contribute to the on-going revitalization of this community; and

WHEREAS, as part of the redevelopment of the North Avenue Area, the City and ABI have agreed that in order to support the timetable set forth for the sale and development of City Hall East and simultaneously accomplish the City's long term goal for storm and sanitary sewer relief within the Clear Creek Basin in general and the North Avenue Area in specific, the City has authorized ABI to perform, on behalf of the City, the public improvements in the public right of way around and within the North Avenue Area necessary to create a regional combined sewer basin relief project, a general description of which is attached as Exhibit A; and

WHEREAS, the City and ABI are working together to develop final engineering, design and construction plans for the Project; and

WHEREAS, the City and ABI acknowledge and agree that the most efficient and economical manner in which to execute the Project is to have such work performed by ABI and to have the City contribute an amount not to exceed \$30,000,000.00 to ABI for the costs incurred or to be incurred by ABI in performing such work, inclusive of design, engineering, land acquisition and construction; and

WHEREAS, the City now wishes to make a contribution to ABI for a portion of the cost of improvements to be paid from the 2008 Water and Wastewater Bond Fund Budget;

**NOW, THEREFORE, THE CITY COUNCIL OF ATLANTA, GEORGIA
HEREBY ORDAINS**

Section 1: That the Mayor is authorized to enter into an intergovernmental agreement with ABI for the design, engineering, land acquisition and construction of the Clear Creek Combined Sewer Basin Relief Project, which agreement is attached hereto in substantial form as Exhibit B.

Section 2: That the City Attorney is authorized to prepare and review all necessary contractual agreements, and the Mayor is authorized to execute all necessary agreements after approval by the City Attorney as to form.

Section 3: Said agreements shall not be binding on the City until executed by the Mayor and delivered to the contracting party.

Section 4: That the following appropriations be transferred as follows:

	Transfer From Reserves	
2J28 7***** Q11X03019999	Reserve for Appropriations	\$30,000,000.00
(2J28 - 2004 Water & Wastewater Bond Fund, 7***** - Appropriations, Q11X03019999 – Capital Projects Reserve)		

	Transfer To Appropriations	
2J28 774001 Q38I01569999	Clear Creek Combined Sewer Basin Relief Project	\$30,000,000.00
(2J28 - 2004 Water & Wastewater Bond Fund, 774001 - Fac. Other Than Buildings, Q38I01569999 – Clear Creek Combined Sewer Basin Relief Project)		

Section 5: That the Chief Financial Officer be and is hereby authorized to make payment for said contractual agreements from the 2008 Water and Wastewater Bond Fund Budget in the aggregate amount not to exceed \$30,000,000.00. Said amount should be charged to and paid from Fund Account and Center Number 2J28-574001-Q38I01569999 (2J28 - 2004 Water & Wastewater Bond Fund, 574001-Fac. Other Than Buildings, Q38I01569999 – Clear Creek Combined Sewer Basin Relief Project).

Section 6: That the Mayor is authorized to accept a deed for the 2008 Clear Creek Combined Sewer Basin Relief Project for the purpose transferring the interest in Project facilities and related land to the City, which shall thereafter be maintained and operated as part of the City's public combined sanitary and storm water sewer system on the conditions that said Project is constructed in accordance with all final terms and conditions of the above intergovernmental agreement and in accordance with final plans for the Project, as approved by the City.

EXHIBIT A

DEPARTMENT OF WATERSHED MANAGEMENT CLEAR CREEK COMBINED SEWER BASIN RELIEF PROJECT

A portion of the assemblage of land for the proposed North Ave Park offers a unique opportunity for the Department of Watershed Management.

The proposed project will provide a storm water management pond with detention of 22 acre-ft (9 million gallons) of storm water runoff from an 800-acre drainage area south of North Avenue.

The project will reduce the peak rate flow to the existing combined sewer trunk, thus offering capacity relief to the combined sewer system.

The pond and surrounding terraces will retain flow from the 100-year storm.

Benefits

- **Cost-effective** – the project will eliminate a more expensive tunnel project. We anticipate capital cost savings and annual operating cost savings.
- **Innovative** – the project offers a more elegant solution to managing flows within the combined sewer basin than a deep relief sewer project. It offers a more sustainable, environmentally friendly solution, with a dual pond system for flood management and integrated wetlands for water quality improvements.
- **Public Amenity** – the project will be seamlessly incorporated into the North Ave Park, and will increase the aesthetics of the park – similar to the recently completed pond at Dean Rusk Park, but on a larger scale.
- **Environmental Education** – offers opportunity for on-site environmental education programs within the North Ave Park – relative to storm water and wetlands management.

Ponds

Final detailed engineering will be performed in 2008, but preliminary conceptual design contemplates the following:

- Two primary ponds that will enjoy a permanent water level and attractive fountains –
- Terraced retention walls will allow stepped flooding of the ponds, with wetland planting features in the first terraced levels, and open areas and lawns in the higher areas
- Creates about 2 acres of usable park space
- Each retaining wall steps up about 2 feet – with natural stone materials
- Contemplate board walks that span portions of the pond
- Some type of decorative fencing will surround the perimeter of the ponds
- The southern pond will spill into the northern pond across Dallas street

Schedule

The project is estimated at a 27-month delivery schedule -- detailed engineering design will be completed in 2008 – construction will be completed by end of 2009

Funding and Project Delivery

The Department of Watershed Management (DWM) is funding the project at a not-to-exceed amount of \$30 million. Atlanta Beltline, Inc. (ABI) is charged with implementing the larger, comprehensive plan for the North Ave Park and attendant amenities. To that end, the City proposes an inter-governmental agreement with ABI for the land acquisition, design and construction of the Project.

EXHIBIT B

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (the "Agreement"), is entered into as of the ___ day of _____, 2007 ("Effective Date"), by and between **Atlanta BeltLine, Inc.** (herein called "ABI") and the **City of Atlanta, Georgia** (herein called the "City") (collectively referred to as "Parties" or "Party").

WHEREAS, Atlanta BeltLine, Inc. ("ABI") has been established by the Atlanta Development Authority to execute the approved BeltLine Tax Allocation District, as authorized by City of Atlanta Ordinance 05-O-1733; and

WHEREAS, ABI has identified several projects through the approved BeltLine TAD Workplan authorized by City Ordinance 06-O-1575, which includes the creation of a park and attendant amenities in the area commonly referred to as the North Avenue Area; and

WHEREAS, the City of Atlanta has authorized the sale of City Hall East and the subsequent redevelopment of portions of the North Avenue Area, by City of Atlanta Ordinance 05-R-1832; and

WHEREAS, the redevelopment of City Hall East will require the vacation of certain storm water vaults that currently occupy the first floor of the structure; and

WHEREAS, the proposed Clear Creek Combined Sewer Basin Relief Project (the "Project") will provide a storm water management pond on approximately 5 acres, with detention of 22 acre-ft (9 million gallons) of storm water runoff from an 800-acre drainage area within the Clear Creek combined sewer basin, upstream (south) of North Avenue; and

WHEREAS, the Project will retain storm water runoff from the 100-year storm event, which will reduce the peak rate of flow to the existing combined sewer trunk, thus offering capacity relief to the existing combined sewer system as required under the City's wastewater consent decrees; and

WHEREAS, the Project will be constructed in an aesthetically attractive manner to serve as an amenity to the Old Fourth Ward neighborhoods and to the City of Atlanta, providing a centerpiece for the proposed North Avenue Park contemplated in the BeltLine TAD; and

WHEREAS, the design and construction of the Project will employ forward-thinking and innovative design and engineering concepts to improve the delivery of similar projects throughout the City; and

WHEREAS, the Old Fourth Ward community and adjacent neighbors will have access to a park and water feature that will contribute to the on-going revitalization of this community; and

WHEREAS, as part of the redevelopment of the North Avenue Area, the City and ABI have agreed that in order to support the timetable set forth for the sale and development of City Hall East

EXHIBIT B

and simultaneously accomplish the City’s long term goal for storm and sanitary sewer relief within the Clear Creek Basin in general and the North Avenue Area in specific, the City has authorized ABI to perform, on behalf of the City, the public improvements in the public right of way around and within the North Avenue Area necessary to create a regional combined sewer basin relief project; and

WHEREAS, the City and ABI are working together to develop final engineering, design and construction plans for the Project; and

WHEREAS, the City and ABI acknowledge and agree that the most efficient and economical manner in which to execute the Project is to have such work performed by ABI and to have the City contribute an amount not to exceed \$30,000,000.00 to ABI for the costs incurred or to be incurred by ABI in performing such work, inclusive of design, engineering, land acquisition and construction; and

WHEREAS, the City now wishes to make a contribution to ABI for a portion of the cost of improvements to be paid from the 2008 Water and Wastewater Bond Fund Budget; and

WHEREAS, subject to the terms and conditions set forth herein, the City and ABI have agreed that ABI would execute the 2008 Clear Creek Combined Sewer Basin Relief Project on behalf of the City, and the City desires to accept such offer and contribute the funds to ABI for the 2008 Clear Creek Combined Sewer Basin Relief Project.

RECITALS

NOW, THEREFORE, in consideration of TEN AND NO/100 DOLLARS (\$10.00) and the mutual agreements and covenants hereinafter set forth and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the Parties hereby agree as follows:

Section 1. City Contribution.

1.1. **City Authority.** The City hereby acknowledges and agrees that pursuant to Ordinance No. _____ the Mayor is authorized to execute this Agreement. Furthermore, pursuant to Ordinance No. _____ and this Agreement, the City is authorized to and shall contribute an amount not to exceed THIRTY MILLION AND NO/100 DOLLARS (\$30,000,000.00) to ABI for the purpose of performing the Project in accordance with the terms and conditions of this Agreement (“City Contribution”). The City further acknowledges that its commitment to contribute funding toward the Project, which is required to support the North Avenue Redevelopment Project, is clearly established in Ordinance _____ approving the 2008 Water and Wastewater Bond Fund Budget which specifically provides for \$30,000,000.00 needed to support the Project.

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1.2. **Payment.** The City hereby agrees to and shall pay to ABI the City Contribution toward the cost of performing the Project. The City shall make such contribution as soon as practicable, but in no event later than 30 days after the Effective Date of this Agreement (the "Commitment Date"). The City Contribution shall cover Project Costs, as hereinafter defined, for the design and construction of the Project. Project Costs include, without limitation the following:

1.2.1. The cost of labor, materials, bond premiums (payment and performance), permit fees, impact fees, easement costs, utilities, equipment (acquired or rented) and similar items incorporated into or consumed in the construction of the Project and any related site or landscaping work incorporated in or related to the Project, including but not limited to, all sums paid to or incurred by ABI, as hereinafter defined;

1.2.2. Consulting design and engineering fees and expenses paid or incurred for outside consultants, designers and engineers in connection with the surveying, planning and construction of the Project and any related site work, including borings, soil analysis or other geotechnical services;

1.2.3. Tree recompense or tree ordinance compliance expenses; and

1.2.4. Cost for the acquisition of temporary construction easements and permanent easements on which the subject improvements shall be constructed (if any).

1.3. **Purpose and Acknowledgements.** The City hereby acknowledges that the purpose of the City Contribution is to make a contribution to ABI to pay towards the cost of performing the Project. The City acknowledges that the Project will be performed by ABI, by and through its subcontractors and suppliers, under those powers and authority granted to ABI by applicable law. The City acknowledges that ABI has become financially obligated to contractors, and will be affected by deadlines concerning the construction of the Project. The City further acknowledges that if ABI has not received the City Contribution on or before the Commitment Date, then ABI will be at risk for becoming liable for, or subject to liens, fines and penalties and other monetary damages in connection with unpaid construction costs incurred with respect to the Project. The City acknowledges liability for resulting damages, losses, expenses, liens, penalties or fines arising from the City's breach of this Agreement through its failure to make payment of the City Contribution to ABI on or before the Commitment Date, unless the City's failure to make the payment arises from an unforeseeable or uncontrollable cause beyond the control and without the fault or negligence of the City and its employees and agents.

1.4. **Refund to the City.** ABI and the City agree as follows: if the cost of the Project does not exceed the total contributions from the City for such public improvements, then ABI shall refund to the City all unexpended funds. The City acknowledges that it owns and has

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responsibility for furnishing and performing the Project. ABI is willing to perform the Project under the terms and conditions of this Agreement.

Section 2. ABI's Obligations.

2.1. **General Obligation.** ABI shall design and construct the Project in accordance with the terms and conditions of this Agreement and all applicable local, state and federal laws, regulations, policies and standards.

2.2. **Design/Plans.** ABI shall cause the Project to be designed in conformance with all applicable local, state and federal laws and standards. ABI shall cause to submit all design drawings, plans and specifications to the City for approval, which approval shall not be unreasonably delayed or withheld. If satisfactory, the City shall provide approval of said drawings in writing. Any changes or amendments in the originally approved drawings must be expressly approved by the City. Originally approved drawings and any subsequent approved amendments shall be referred to as "Approved Plans." Said approval is an express condition of commencement of the construction of the Project.

2.3. **Permits, approvals, licenses, inspection and certifications; fees.** Using the City Contribution, ABI shall obtain and pay for all permits, licenses, certifications, and inspections necessary for the construction of the Project.

2.3.1. ABI shall cause to be submitted all appropriate documentation to the Georgia Environmental Protection Division ("EPD") for the purpose of obtaining all necessary approvals from the EPD for the Project.

2.4. Easements and encroachments.

2.4.1. The City hereby consents to and authorizes ABI, its authorized agents and representatives, subcontractors and suppliers hired to perform the construction work for the Project, to enter upon and into the City's property and current right-of-way and sewer easements ("Encroachment Area") for the purpose of constructing the Project in accordance with the Approved Plans and this Agreement. ABI agrees that this right to use the Encroachment Area shall be non-exclusive and temporary and shall terminate upon the completion of the Project. Furthermore, said encroachments rights shall be and is subject to any existing agreements of record that the City has with any third party, including a public utility.

2.4.2. ABI shall acquire all permanent and temporary easements, rights of access or other interests necessary to complete the construction of the Project (if any). Upon the completion of the Project and upon dedication of the Project, as defined below, ABI shall dedicate all permanent easements to the City in conformance with the Approved Plans. Construction of the Project shall not

EXHIBIT B

commence until all necessary easements, rights of entry, access or other interests are duly acquired. If ABI is not successful in acquiring such easements and rights of access, ABI shall notify the City in writing. After such notification, the City agrees to use all appropriate rights and remedies to assist in acquiring necessary easements, access or other interests.

2.5. Construction of Project.

2.5.1. Completion Standard. The construction of the Project shall be completed lien free, in a good workmanlike manor, free of material defects and in compliance with the requirements of all applicable federal, state, and local permits, ordinances, building codes, procedures, rules, and regulations and in substantial conformity with the Approved Plans and this Agreement.

2.5.2. Repairs and Restoration. ABI shall cause the repair of any damage to any City facilities, the Encroachment Area, any public or private utilities, or any private property caused by or related to ABI's construction of the Project. The City expressly reserves the right to halt construction, direct construction activities, or take appropriate measures in the event that such activities are a threat to the public health, safety or welfare, including without limitation, dangers or threats to persons or real and personal property.

2.5.3. Work Conditions. ABI shall require that any and all contractors, subcontractors or suppliers comply with the applicable provisions of federal, state and local safety laws; perform work in a good workmanlike manor; and take all measures necessary in an effort to prevent accidents, damages, injury or loss to persons and property in the construction of the Project.

Section 3. Bonds, Insurance and Indemnification.

3.1. Bonds and Insurance. ABI shall ensure that its contractor or subcontractor for the construction of the Project provides performance and payments bonds for 100% of the costs of the construction work. Such bonding requirement shall be included in the public improvements agreement for the construction of the Project. Additionally, ABI shall cause its contractor or subcontractor to maintain a policy of general liability insurance, which names the City of Atlanta as an additional insured. Prior to ABI issuing a notice to proceed for the construction of the Project, ABI shall provide a copy of said bonds and a certificate of insurance for all applicable insurance policies.

3.2. Indemnification. ABI shall insert terms in its public improvements agreement with the Development Partner that requires Development Partner and its primary subcontractor to indemnify and hold harmless the City, its agents and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including but not limited to attorneys fees, arising out of or resulting from the performance of the Project

EXHIBIT B

("Indemnification Obligation"). The Indemnification Obligation shall not be waived or reduced because the City approved, required modification of or did not require modification of any plan, calculation or specification submitted by or on behalf of ABI concerning or relating to the construction of the Project.

3.3. **Relevant Agreements.** ABI shall provide the City with copies of all relevant agreements, bonds and insurance certificates evidencing compliance with Section 3 of this Agreement prior to and as a condition of commencement of work on the Project.

Section 4. Inspection and Maintenance of Records.

4.1. **Inspection.** The City shall be permitted to inspect, monitor and evaluate the construction of the Project to ensure that the construction is performed in accordance with the terms of this Agreement, including without limitation, providing an onsite inspector to monitor the daily work. At any time the City determines that construction is resulting in materially defective work, the City shall provide notice to ABI. ABI shall immediately cause to remedy any such identified defects as directed by the City.

4.2. **Records.** ABI shall keep records, books, correspondence, instructions, drawings, receipts, vouchers, and other documents related to the construction of the Project ("Records"). Such Records shall be kept in good order and in conformance with generally accepted accounting principles. ABI shall maintain the Records for a minimum period of four years after the completion of the Project. ABI shall provide access to the City upon request to all Records for inspection, review, analysis, and, if deemed necessary and appropriate, for an audit at the City's expense.

Section 5. Acceptance and Dedication.

5.1. ABI shall dedicate the Project and all applicable permanent easements to the City upon the completion of the Project in conformance with this Agreement.

5.2. The City shall accept the dedication of the Project conditioned upon the following:

5.2.1. ABI completes the Project in accordance with the Approved Plans.

5.2.2. ABI provides certified as-built drawings of the completed Project. Such approval of the City will not be unreasonably withheld, conditioned or delayed.

ARTICLE 6. MISCELLANEOUS PROVISIONS

6.1. **Entire Agreement.** This Agreement supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof. This Agreement shall not be modified

EXHIBIT B

or amended in any respect except by written instrument executed by or on behalf of the Parties in the same manner as this Agreement is executed and specifically referencing such a modification or amendment.

6.2. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto, their heirs, successors, executors and assigns.

6.3. **Severability.** In the event any provision or portion of this Agreement is held by any Court of competent jurisdiction to be invalid or unenforceable, such holdings shall not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provisions or portion never been apart hereof.

6.4. **Notices.** Notices and reports described herein shall be delivered or sent to the parties as follows.

To ABI:

President and Chief Executive Officer
Atlanta BeltLine, Inc.
86 Pryor Street
Suite 200
Atlanta, Georgia 30303
Fax: (404) 880-0616
Tel: (404) 614-8300

With a copy to:

General Counsel
Atlanta Development Authority
Atlanta BeltLine, Inc.
86 Pryor Street
Suite 200
Atlanta, Georgia 30303
Fax: (404) 880-0616
Tel: (404) 880-4100

To the City:

Commissioner
Department of Watershed Management
55 Trinity Avenue, S.W. - Suite 5400
Atlanta, Georgia 30335-0310
Fax: 404-658-7194

EXHIBIT B

Tel: 404-330-6081

With a copy to:

City Attorney
Suite 4100, City Hall Tower
68 Mitchell Street, S.W.
Atlanta, Georgia 30335-0332
Fax: 404-658-6894
Tel: 404-330-6400

6.5. **Entire Agreement; Amendment; Waiver; Counterparts.** This Agreement constitutes the entire agreement between the parties; it supersedes any prior agreement or understandings between them, oral or written, with respect to the matters addressed herein, all of which are hereby canceled. This Agreement may not be amended or modified except by an instrument in writing signed by both parties hereto. Waiver of any term or condition of this Agreement shall be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

6.6. **Governance.** This Agreement shall be governed by the laws of the State of Georgia.

6.7. **Default and Termination.** Notwithstanding the foregoing, if ABI defaults in its performance of its obligations as set forth herein, and fails to cure such default within thirty (30) days of City's written notice to ABI of such default (or if such default is not capable of being cured within thirty (30) days, ABI has not commenced and diligently pursued such cure to completion within a reasonable amount of time), this Agreement may be terminated by City upon five (5) days' prior written notice to ABI.

6.8. Time is and shall be of the essence in this Agreement.

EXHIBIT B

IN WITNESS WHEREOF, the City and ABI have executed this Agreement and caused their seals to be affixed and attested as of the day and year first above written.

ATLANTA BELTLINE, INC.

By: _____ (SEAL)
Terri Montague
Chief Executive Officer

Attest:

Secretary

CITY OF ATLANTA, GEORGIA

By: _____ (SEAL)
Mayor

Attest:

Recommended:

Municipal Clerk

Chief Operating Officer

Approved as to Form:

Chief Financial Officer

City Attorney

Commissioner, Department of Watershed
Management

AN ORDINANCE BY

07-O-1530

COUNCILMEMBER KWANZA HALL



AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ATLANTA BELTLINE, INC. ("ABI") FOR THE DESIGN AND CONSTRUCTION OF THE CLEAR CREEK COMBINED SEWER BASIN RELIEF PROJECT ("PROJECT") ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO AMEND THE FISCAL YEAR 2008 BUDGET (WATER AND WASTEWATER BOND FUND) IN THE AMOUNT OF \$XX,000,000.00 TO TRANSFER FUNDS FROM THE RESERVE FOR APPROPRIATIONS (2J28 791001 T11001) TO CLEAR CREEK COMBINED SEWER BASIN PROJECT (2J28 774001 Q38I01569999) TO THE ATLANTA BELTLINE, INC.; AUTHORIZING THE MAYOR TO EXECUTE APPROPRIATE AGREEMENTS WITH ABI TO EFFECTUATE THESE PURPOSES; AUTHORIZING THE ACCEPTANCE OF THE PROJECT UPON FINAL COMPLETION OF THE PROJECT; AND FOR OTHER PURPOSES.

WHEREAS, Atlanta BeltLine, Inc. ("ABI") has been established by the Atlanta Development Authority to execute the approved BeltLine Tax Allocation District, as authorized by City of Atlanta Ordinance 05-O-1733; and

WHEREAS, ABI has identified several projects through the approved BeltLine TAD Workplan authorized by City Ordinance 06-O-1575, which includes the creation of a park and attendant amenities in the area commonly referred to as the North Avenue Area; and

WHEREAS, the City of Atlanta has authorized the sale of City Hall East and the subsequent redevelopment of portions of the North Avenue Area, by City of Atlanta Ordinance 05-R-1832; and

WHEREAS, the redevelopment of City Hall East will require the vacation of certain storm water vaults that currently occupy the first floor of the structure; and

WHEREAS, the City recognizes the need to detain approximately 1,200,000 cubic feet (8,900,000 gallons) of water from an approximately 800-acre drainage area upstream of the North Avenue Area, to reduce peak flow to the existing combined sewer trunk and to provide localized relief; and

WHEREAS, the proposed combined sewer feature will be constructed in an aesthetically attractive manner to serve as an amenity to the Old Fourth Ward neighborhoods and to the City of Atlanta, providing a centerpiece for the proposed North Avenue Park contemplated in the BeltLine TAD; and

WHEREAS, the design and construction of the Project will employ forward-thinking and innovative design and engineering concepts to improve the delivery of similar projects

throughout the City; and

WHEREAS, the Old Fourth Ward community and adjacent neighbors will have access to a park and water feature that will contribute to the on-going revitalization of this community; and

WHEREAS, as part of the redevelopment of the North Avenue Area, the City and ABI have agreed that in order to support the timetable set forth for the sale and development of City Hall East and simultaneously accomplish the City's long term goal for storm and sanitary sewer relief within the Clear Creek Basin in general and the North Avenue Area in specific, the City has authorized ABI to perform, on behalf of the City, the public improvements in the public right of way around and within the North Avenue Area necessary to create a regional combined sewer basin relief project, as more fully described in the Public Improvements Budget attached as Exhibit A to be known as the 2008 Clear Creek Combined Sewer Basin Project (the "Project"); and

WHEREAS, the City and ABI are working together to develop final engineering, design and construction plans for the Project; and

WHEREAS, the City and ABI acknowledge and agree that the most efficient and economical manner in which to perform the Clear Creek Combined Sewer Basin Relief Project is to have such work performed by ABI and to have the City contribute \$XX,000,000.00 to ABI for the costs incurred or to be incurred by ABI in performing such work, inclusive of design, engineering, land acquisition and construction; and

WHEREAS, the City now wishes to make a contribution to ABI for a portion of the cost of improvements to be paid from the 2008 Water and Wastewater Bond Fund Budget;

NOW, THEREFORE, THE CITY COUNCIL OF ATLANTA, GEORGIA HEREBY ORDAINS

Section 1: That the Mayor is authorized to enter into an intergovernmental agreement with ABI for the design, engineering, land acquisition and construction of the Clear Creek Combined Sewer Basin Relief Project, which agreement is attached hereto in substantial form.

Section 2: That the City Attorney is authorized to prepare and review all necessary contractual agreements, and the Mayor is authorized to execute all necessary agreements after approval by the City Attorney as to form.

Section 3: Said agreements shall not be binding on the City until executed by the Mayor and delivered to the contracting party.

Section 4: That the following appropriations be transferred as follows:

	<u>Transfer From Reserves</u>	
2J28 791001 T11001	Reserve for Appropriations	\$XX,000,000.00

Transfer To Appropriations

2J28 774001 Q38I01569999 North Ave. Combined Relief Project \$XX,000,000.00

Section 5: That the Chief Financial Officer be and is hereby authorized to make payment for said contractual agreements from the 2008 Water and Wastewater Bond Fund Budget in the aggregate amount not to exceed \$XX,000,000.00. Said amount should be charged to and paid from Fund Account and Center Number 2J28-574001-Q38I01569999.

Section 6: That the Mayor is authorized to accept a deed for the 2008 North Avenue Combined Sewer Relief Project for the purpose transferring the interest in Project facilities and related land to the City, which shall thereafter be maintained and operated as part of the City's public combined sanitary and storm water sewer system on the conditions that said Project is constructed in accordance with all final terms and conditions of the above intergovernmental agreement and in accordance with final plans for the Project, as approved by the City.